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VENTURA SUPERIOR COURT

OCT 15 2020

PLD-C-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JOHN DALE KERR ATTORNEY AT LAW SBN 102760 LAW OFFICE OF JOHN DALE KERR 5550 TOPANGA CANYON BOULEVARD SUITE 200 WOODLAND HILLS, CALIFORNIA 91367		FOR COURT USE ONLY
TELEPHONE NO: 818.587.9299	FAX NO (Optional) 818.587.9292	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name): PLAINTIFF, MIKE SARIEDDINE		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA STREET ADDRESS: 800 S. VICTORIA AVENUE MAILING ADDRESS P.O. BOX 6489 CITY AND ZIP CODE: VENTURA, CA. 93009 BRANCH NAME: HALL OF JUSTICE-MAIN DISTRICT		
PLAINTIFF: MIKE SARIEDDINE DEFENDANT: THOMAS KURTIK; LONNIE PAUL SLOMAN; K AND S DISTRIBUTION <input checked="" type="checkbox"/> DOES 1 TO 10		
CONTRACT <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Number): <input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (Number):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER:

1. Plaintiff* (name or names):
MIKE SARIEDDINE
alleges causes of action against defendant* (name or names):
THOMAS KURTIK; LONNIE PAUL SLOMAN; K AND S DISTRIBUTION AND DOES 1-10 INCLUSIVE
2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. a. Each plaintiff named above is a competent adult
☐ except plaintiff (name):
(1) ☐ a corporation qualified to do business in California
(2) ☐ an unincorporated entity (describe):
(3) ☐ other (specify):
b. ☐ Plaintiff (name):
a. ☐ has complied with the fictitious business name laws and is doing business under the fictitious name (specify):
b. ☐ has complied with all licensing requirements as a licensed (specify):
c. ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.
4. a. Each defendant named above is a natural person
☒ except defendant (name): K AND S DISTRIBUTION ☐ except defendant (name):
(1) ☒ a business organization, form unknown (1) ☐ a business organization, form unknown
(2) ☐ a corporation (2) ☐ a corporation
(3) ☐ an unincorporated entity (describe): (3) ☐ an unincorporated entity (describe):
(4) ☐ a public entity (describe): (4) ☐ a public entity (describe):
(5) ☐ other (specify): (5) ☐ other (specify):

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

Page 1 of 2

JF

SHORT TITLE: SARIEDDINE VS. KURTIK ET.AL.	CASE NUMBER:
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4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

(1) ☒ Doe defendants (specify Doe numbers): 1-10 were the agents or employees of the named defendants and acted within the scope of that agency or employment.(2) ☒ Doe defendants (specify Doe numbers): 1-10 are persons whose capacities are unknown to plaintiff.c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):5. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

a. ☒ a defendant entered into the contract here.b. ☐ a defendant lived here when the contract was entered into.c. ☐ a defendant lives here now.d. ☐ the contract was to be performed here.e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.f. ☐ real property that is the subject of this action is located here.g. ☐ other (specify):

CONTRACT WAS EXECUTED IN SIMI VALLEY, VENTURA COUNTY STATE OF CALIFORNIA

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

☒ Breach of Contract☒ Common Counts☒ Other (specify):

FRAUD COUNT

9. ☐ Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. ☒ damages of: \$76,700.00b. ☒ interest on the damages(1) ☐ according to proof(2) ☒ at the rate of (specify): 10 percent per year from (date): 2020c. ☒ attorney's fees(1) ☐ of: \$(2) ☒ according to proof.d. ☒ other (specify):

PER CIVIL CODE 1717

11. ☐ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: October 12, 2020

JOHN DALE KERR

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE:

MIKE SARIEDDINE VS. THOMAS KURTIK, ET.AL.

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION—Breach of ContractATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): MIKE SARIEDDINE

alleges that on or about (date): 6/10/19

a ☒ written ☐ oral ☐ other (specify):

agreement was made between (name parties to agreement):

MIKE SARIEDDINE AND THOMAS KUTIK; LONNIE PAUL SLOMAN

☒ A copy of the agreement is attached as Exhibit A, or☐ The essential terms of the agreement ☐ are stated in Attachment BC-1 ☐ are as follows (specify):

BC-2. On or about (dates): JULY, 2019

defendant breached the agreement by ☐ the acts specified in Attachment BC-2 ☒ the following acts (specify):

DEFENDANTS AND EACH OF THEM HAVE BREACHED THE PROVISIONS IN THE CONTRACT ATTACHED AS EXHIBIT "A" AND INCORPORATED BY REFERENCE. THE PROVISIONS DEFEANDANTS AND EACH OF THEM BREACHED WERE, NUMBERED 1, 3, 5, AND 7.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

☐ as stated in Attachment BC-4 ☒ as follows (specify):

2000 UNITS PER MONTH PER CONTRACT, AT \$7000.00PER MONTH (EST.) FOR TOTAL OF \$84,000.00 ,LESS \$9286.00 PAID; PLAINTIFF ALLEGES FURTHER THAT THE SUBJECT VEHICLE ,A VAN REFERRED TO IN PROVISIONS 1-4 AND 6, WAS DAMAGED UPON RETURN BY DEFENDANTS AND EACH OF THEM. THE DAMAGES WERE THE WINDSHIELD, BRAKES AND OIL MAINTENCE COSTING \$1500.00

BC-5. ☒ Plaintiff is entitled to attorney fees by an agreement or a statute☒ of \$ REASONABLE PER CIVIL CODE 1717☐ according to proof.BC-6. ☐ Other:

Page

3

Page 1 of 1

SHORT TITLE:
MIKE SARIEDDINE VS. THOMAS KURTIK ;ET.AL.

CASE NUMBER:

SECOND CAUSE OF ACTION—Common Counts
(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): MIKE SARIEDDINE

alleges that defendant (name): THOMAS KURTIK ; LONNIE PAUL SLOMAN , ET AL.

became indebted to ☒ plaintiff ☐ other (name):

- a. ☐ within the last four years
- (1) ☐ on an open book account for money due.
- (2) ☐ because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.
- b. ☒ within the last ☒ two years ☐ four years
- (1) ☒ for money had and received by defendant for the use and benefit of plaintiff.
- (2) ☐ for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff.
- ☐ the sum of \$ 3,000.0 PLUS VEHICLE REPAIR COSTS
- ☐ the reasonable value.
- (3) ☐ for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff
- ☐ the sum of \$
- ☐ the reasonable value.
- (4) ☐ for money lent by plaintiff to defendant at defendant's request.
- (5) ☒ for money paid, laid out, and expended to or for defendant at defendant's special instance and request.
- (6) ☒ other (specify):
- PURSUANT TO THE WRITEN CONTRACT, EXHIBIT "A" PLAINTIFF PURCHASED AT THE REQUEST OF DEFENDANTS AND EACH OF THEM ,THAT CERTAIN SUBJECT DODGE VAN TO ACCOMPLISH THE DELIVERY AND DISTRIBUTION OF THE PRODUCTS INCURRING SIX MONTHS VEHICLE PAYMENT AT ABOUT \$500.00 PER MONTH

CC-2. \$ 3,000.00 , which is the reasonable value, is due and unpaid despite plaintiff's demand,
plus prejudgment interest ☒ according to proof ☒ at the rate of 10 percent per year
from (date):

CC-3. ☒ Plaintiff is entitled to attorney fees by an agreement or a statute
☐ of \$
☒ according to proof.

CC-4. ☒ Other:
PER CALIF. CIVIL CODE 1717

Page

4

SHORT TITLE:

MIKE SARIEDDINE VS, THOMAS KURTIK ET.AL.

CASE NUMBER

THIRD

(number)

CAUSE OF ACTION—FraudATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

FR- 1. Plaintiff (name): MIKE SARIEDDINE

alleges that defendant (name) THOMAS KURTIK; LONNIE PAUL SLOMAN, ET.AL.

on or about (date): JUNE 10.2019

defrauded plaintiff as follows:

FR-2. ☒ **Intentional or Negligent Misrepresentation**a. Defendant made representations of material fact ☐ as stated in Attachment FR-2.a ☒ as follows:

DEFENDANTS AND EACH OF THEM ENTERED INTO THE WRITTEN CONTRACT, ATTACHED HERETO, AS EXHIBIT "A", TO ENTICE AND DUPE PLAINTIFF TO PURCHASE THAT CERTAIN DODGE VAN FOR PURPOSES OF DISTRIBUTING "VAPE PRODUCTS THAT HE SOLD. DEFENDANTS AND EACH OF THEM AGREED THAT THE DISTRIBUTION WOULD BE AT 2000 UNITS PER MONTH AND THE VEHICLE WOULD BE USED FOR THIS DISTRIBUTION FOR PLAINTIFF FACILITY ONLY. DEFENDANTS AND EACH OF THEM ACTED OTHERWISE.

b. These representations were in fact false The truth was ☒ as stated in Attachment FR-2.b ☐ as follows.

DEFENDANTS AND EACH OF THEM, THE FIRST MONTH, FAILED TO DISTRIBUTE THE 2000 UNITS, AND USED THE DODGE VAN TO DISTRIBUTE AND DELIVER OTHER PRODUCTS OUTSIDE THE PROVISIONS AND SCOPE OF THE CONTRACT. THE INTENT OF DEFENDANTS AND EACH OF THEM, WAS TO DUPE PLAINTIFF INTO PURCHASING THE DODGE VAN SO THAT THEY HAD A RELIABLE VEHICLE.

c. When defendant made the representations,

☒ defendant knew they were false, or☐ defendant had no reasonable ground for believing the representations were true

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3. ☒ **Concealment**a. Defendant concealed or suppressed material facts ☐ as stated in Attachment FR-3.a ☒ as follows:

DEFENDANTS AND EACH OF THEM CONCEALED FROM PLAINTIFF THAT THEY WERE USING THE SUBJECT VAN TO DELIVER PRODUCTS FOR OTHER FACILITIES

b. Defendant concealed or suppressed material facts

☐ defendant was bound to disclose.☒ by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

Page 5

SHORT TITLE:
MIKE SARIEDDINE VS, THOMAS KURTIK ET.AL.

CASE NUMBER

THIRD

(number)

CAUSE OF ACTION—Fraud

FR-4. ☒ Promise Without Intent to Perform

- a. Defendant made a promise about a material matter without any intention of performing it ☐ as stated in Attachment FR-4.a ☒ as follows

DEFENDANTS AND EACH OF THEM, ALMOST IMMEDIATELY FAILED TO DISTRIBUTE THE AGREED 2000 UNITS PER MONTH OF PLAINTIFF'S PRODUCT AND COMMENCED TO USE THE SUBJECT VEHICLE TO DISTRIBUTE OTHER PRODUCTS THAT WERE NOT PRODUCTS FROM THE PLAINTIFF BUSINESS

- b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act ☐ as stated in Attachment FR-5 ☒ as follows:

PLAINTIFF PURCHASED THE SUBJECT DODGE VAN VEHICLE AND INCURRED ADDITIONAL EXPENSES PURSUANT TO THE WRITTEN REPRESENTATIONS AND IN FACT DEFERRED FROM RETAINING AN ALTERNATE DISTRIBUTION FACILITY BASED ON DEFENDANTS WRITTEN PROMISES AS DESCRIBED IN EXHIBIT "A"

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged ☐ as stated in Attachment FR-6 ☒ as follows.

THE PURCHASE OF THE DODGE VAN CHARGES PER MONTH AND THE LOSS OF DISTRIBUTION OF THE "VAPE PRODUCTS" AT 2000 UNITS PER MONTH AT A VALUE OF \$7,000.00 PER MONTH FOR A TOTAL OF \$84,000.00 LESS A CREDIT TO DEFENDANTS OF ABOUT \$9,300.00

FIR - 7. Other.

Page

6

EXHIBIT "A"

1) 1 year commitment (M)

~~1) 1 year commitment~~

2)

2) Responsible for full coverage Insurance
Minimum 100/300 & Uninsured Motorist
Maximum Liability ~~and~~ Available.

Tom, Paul responsible for deductible

3) ^{YWD} used for Business Use only

4) Logos on Van to be YWD only

5) ^{Units} 2000, ~~2000~~ / Month of YWD products
(CDS is 2 bottles / pack)

6) Tom, Paul Responsible for products in the Van
If Lost or stolen YWD Gts paid either way

7) 1 year Exclusive of only YWD products and
Current Nic Maxx product only.

Mirvie Smedley
6-10-19

Paul Muser
6-10-19

Tim
6-10-19

Tim